

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Manuel Alvarez,

Plaintiff,

v.

Oreion Motors LLC
and Kent Knox

Defendants.

Case No. 1:22-cv-589

PLAINTIFF DEMANDS
TRIAL BY JURY

COMPLAINT

Plaintiff, Manuel Alvarez (“Plaintiff”), by and through their attorneys, Daniel I. Schlade and James M. Dore, complain against Oreion Motors LLC (“Defendant” or “OM”) and Kent Knox (“Defendant” or “Knox”). OM and Knox may collectively be referred to as “Defendants”. In support of this Complaint, Plaintiff states:

Introduction

1. This action seeks redress for Defendants’ willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”), as well as any related state law claims, including NMSA 1978 § 50-4-22 (“NMSA”), for Defendants’ failure to pay minimum wages owed.

Parties

2. Plaintiff is a resident of Rio Rancho, New Mexico; and he was employed by Knox and OM.

3. OM is a business that is located, headquartered, and conducts business in Corrales, New Mexico.

4. Knox is the owner and Boss of OM, and they are in charge of its employees. On information and belief, Knox is a resident of Rio Rancho, New Mexico.

5. Defendants are “an enterprise engaged in commerce or in the production of goods for commerce” under 29 USC § 203(s)(1)(A)(i) and (ii) because they have annual gross volume of sales made or business done of at least \$500,000; and because they are engaged in interstate commerce or in the production of goods for interstate commerce. Additionally, they have more than three employees.

Jurisdiction And Venue

6. The Court possesses subject matter jurisdiction over the FLSA claim(s) pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331 (federal question), and 28 U.S.C. §1337; and supplemental jurisdiction over any related state law claim(s) pursuant to 28 U.S.C. § 1367.

7. Venue is proper in the District of New Mexico because all underlying facts and transactions occurred in or about Corrales, New Mexico.

Facts Common To All Claims

8. OM is an “employer” as that term is defined in Section 203 of the FLSA, because it is a privately owned for-profit entity.

9. Knox is an “employer” as that term is defined in Section 203 of the FLSA, because: (1) they were Plaintiff’s head “boss” at OM; (2) they had the power to hire and fire the employees, including Plaintiff; (3) they supervised and controlled Plaintiff’s work schedules and conditions of employment; (4) they determined the rate and method of payment for employees; and (5) they maintained employment records.

COUNT I: VIOLATION OF THE FLSA

10. Plaintiff reincorporates by reference Paragraphs 1 through 9, as if set forth in full herein for Paragraph 10.

11. Plaintiff began working at OM in or before 2018 until on or about May 2022.

12. At all times, Plaintiff held the same position at OM, they were a manufacturer. Plaintiff was an “employee” of Defendants as that term is used in Section 203 of the FLSA because he was employed by Defendants to perform mechanical work, and they do not fall into any of the exceptions or exemptions for workers under the FLSA.

13. Although schedules are subject to change, Plaintiff’s general schedule with Defendants required Plaintiff to work on average 26 hours per week.

14. Plaintiff was paid their wages on a(n) monthly basis.

15. Plaintiff’s wages were not based on the number of jobs performed or completed, nor was it based on the quality or efficiency of their performance.

16. Plaintiff’s rate of pay was supposed to be \$5,000 per month, but at times received no payment for his earned wages.

17. On information and belief, Defendants have failed to keep proper time records tracking Plaintiffs’ time worked; and Defendants’ failure and refusal to pay Plaintiff minimum wages for all hours was a willful violation of the FLSA.

18. Plaintiff is entitled to recover unpaid minimum wages and liquidated damages for up to three (3) years prior to the filing of this lawsuit. On information and belief, this amount includes: (i) \$4,485.00 in unpaid minimum wages; (ii) liquidated damages of \$4,485.00; and (iii) Plaintiff’s attorney’s fees and costs, to be determined. A calculation of Plaintiff’s damages are attached as Exhibit A.

WHEREFORE, Plaintiff Manuel Alvarez respectfully requests that the Court enter a judgment in their favor and against Defendants OM and Knox jointly and severally, for:

- A. The amount of unpaid minimum wages for all time worked by Plaintiff, totaling at least \$4,485.00;
- B. An award liquidated damages in an amount equal to at least \$4,485.00;
- C. A declaration that Defendants violated the FLSA;
- D. An award reasonable attorneys' fees and costs; and
- E. Any such additional or alternative relief as this Court deems just and proper.

COUNT II: VIOLATION OF NMSA

19. Plaintiff incorporates by reference Paragraphs 1-18, as if set forth in full herein for this Paragraph 19.

20. This count arises from Defendants' violation of the NMSA, by: failing to pay Plaintiff New Mexico mandated minimum wages for all hours in violation of NMSA.

21. Defendant's failure to pay Plaintiff the New Mexico-mandated minimum wage rate for all hours worked is a violation of the NMSA.

22. The amount of unpaid minimum wages owed to Plaintiff is \$4,485.00.

WHEREFORE, Plaintiff Manuel Alvarez respectfully requests that the Court enter a judgment in their favor and against Defendants OM and Knox jointly and severally, for:

- A. The amount of wages worked by Plaintiff for which he was not paid minimum wages, totaling at least \$4,485.00;
- B. Award Statutory damages for Plaintiff;
- C. Declare that Defendants have violated the NMSA;

- D. Award reasonable attorneys' fees and costs; and/or
- E. Grant such additional or alternative relief as this honorable court deems just and proper.

Manuel Alvarez

s/James M. Dore
Attorney For Plaintiff

James M. Dore (NM Bar No. 159707)
Daniel I. Schlade (ARDC No. 6273008)
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PLAINTIFF DEMANDS TRIAL BY JURY

EXHIBIT A

<u>Week</u>	<u>Av. Hours/Wk.</u>	<u>Hrly. Wage</u>	<u>MW/Hr.</u>	<u>Unpaid MW</u>	<u>FLSA Liquidated</u>
7/28/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
8/4/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
8/11/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
8/18/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
8/25/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
9/1/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
9/8/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
9/15/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
9/22/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
9/29/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
10/6/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
10/13/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
10/20/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
10/27/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
11/3/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
11/10/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
11/17/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
11/24/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
12/1/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
12/8/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
12/15/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
12/22/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
12/29/2019	26	\$0.00	\$7.50	\$195.00	\$195.00
1/5/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
1/12/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
1/19/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
1/26/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
2/2/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
2/9/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
2/16/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
2/23/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
3/1/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
3/8/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
3/15/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
3/22/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
3/29/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
4/5/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
4/12/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
4/19/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
4/26/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
5/3/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
5/10/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
5/17/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
5/24/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
5/31/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
6/7/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
6/14/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
6/21/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
6/28/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
7/5/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
7/12/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
7/19/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
7/26/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
8/2/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
8/9/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
8/16/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
8/23/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
8/30/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
9/6/2020	26	\$21.55	\$7.50	\$0.00	\$0.00

9/13/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
9/20/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
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12/27/2020	26	\$21.55	\$7.50	\$0.00	\$0.00
1/3/2021	26	\$21.55	\$7.50	\$0.00	\$0.00
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1/31/2021	26	\$21.55	\$7.50	\$0.00	\$0.00
2/7/2021	26	\$21.55	\$7.50	\$0.00	\$0.00
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3/20/2022	26	\$21.55	\$7.50	\$0.00	\$0.00
3/27/2022	26	\$21.55	\$7.50	\$0.00	\$0.00
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5/22/2022	26	\$21.55	\$7.50	\$0.00	\$0.00
5/29/2022	26	\$21.55	\$7.50	\$0.00	\$0.00
TOTALS				\$4,485.00	\$4,485.00